

[15th March 1922]

VI

A BILL TO AMEND THE MADRAS PROPRIETARY ESTATES' VILLAGE SERVICE ACT, 1894, AND THE HEREDITARY VILLAGE OFFICES ACT, 1895.

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—
 “Sir, I beg to present the report of the Select Committee on the Bill to amend the Madras Proprietary Estates' Village Service Act, 1894, and the Hereditary Village Offices Act, 1895, and to move that the Bill be taken into consideration. In passing, I will merely add that the Committee have in the course of their careful consideration of the Bill introduced two very necessary safeguards: firstly, in the nature of an additional clause whereby the Act will be in force for only a limited period specified therein, and secondly, by introducing an additional safeguard that the provisions of this Bill when it becomes Law shall not be introduced into any particular area without a notification by the Local Government published in the *Fort St. George Gazette* and the local official gazette of the district.”

The hon. Mr. K. SRINIVASA AYYANGAR :—“I second the motion.”

The motion was then put to the House and carried.

The hon. the PRESIDENT :—“I shall now, according to the usual practice, put this Bill clause by clause to the House.”

CLAUSE 1.

Clause 1 was then put to the House, passed and added to the Bill.

CLAUSE 2.

Amendment 1.

Mr. T. ARUMAINATHA PILLAI :—“I beg to move, Sir, that in clause 2 for ‘31st December 1923’ substitute ‘30th June 1923’.”

“I believe, Sir, that when this Council passed the Revenue Recovery Amendment Act, we limited the period of its operation to the 30th June 1923. The same reasons which induced the Government to introduce the Bill and also the Council to give its acceptance to the same are also the reasons which induced the Government to introduce this Bill probably for practically the same reasons. Also it was on account of the same reasons that this Bill was referred to the Select Committee and I do not believe, Sir, I need say anything further. According to that Bill it was provided that it should cease to be in operation on that date. And as the present Bill also is intended to prevent the troubles arising in connexion with the same movement, I believe, it is far better that we give a sort of uniformity to both these Acts. I beg to move the amendment standing against my name.”

Mr. A. RANGANATHA MUDALIYAR :—“Sir, I have given notice of a similar resolution and I beg to second this resolution. I do not think that here is any particular object in extending the duration of the Act to 31st December 1923. The Government expected some trouble with regard to the collection of revenue and that is the reason, I think, for the Bill before us. The general revenue collections are generally over by the 30th June and there is no reason to keep this Act in operation for another six months. The Government loses nothing by accepting this amendment.”

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Clause 2—*cont.*

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—

4-15 p.m. “Sir, I take it that this amendment is more or less for the sake of an amendment. There is very little difference practically between 30th June 1923 and 31st December 1923 from the administrative standpoint. The 30th of June was specifically fixed in the Revenue Recovery Act because that denoted the termination of the fasli before which the collections relating to that fasli had to be completed. In the case of the village officials, they are not intended merely for the collection of revenue but in respect of thousand and one other duties which devolve upon them. This question was seriously considered by the Select Committee and it came to the conclusion that the date to be fixed in this Bill might very well terminate at the end of a calendar year and that is why the 31st December 1923 was selected, not because we attached any significance to the 31st December 1923 in itself, nor were we guided by the advice of any astrologer.”

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“The hon. the Revenue Member has not shown that there is any objection to accept the 30th June 1923. The only point that he has made out is that he wants to keep the village officers under trim till the end of the calendar year. But the Council will remember the circumstances under which these two Bills were introduced. When these Bills were introduced, the hon. the Revenue Member was good enough to tell us that as a result of the investigations which the Government made, they brought in these two Bills with a particular object in view. The question of the village officers came prominently into consideration because of the fact that they were largely responsible for the collection of revenue in various tracts affected by non-co-operation. When we realize this question, can any reason be shown for introducing one period in the case of the Revenue Recovery Act and a different period altogether in the case of the present Bill under consideration? He has not been in a position to suggest any tangible reason for keeping on this Act till the 31st December. It is as it were by a rule of thumb that he wants to keep these officers under trim till the end of the calendar year. It might as well be made uniform by having the same period in this Bill as in the case of the Revenue Recovery Bill. I therefore support this motion.”

Mr. M. SURYANARAYANA PANTULU :—“Sir, the hon. the Revenue Member has just now told us that the reason why the term has been extended to 31st December 1923 was that the village officers have something to do not only with the collection work but there were a thousand and one things that they were required to do and that they should be kept under thumb. May I ask the hon. the Revenue Member whether the thousand and one things which are required of them will not be required after the 31st December 1923? May I ask the hon. the Revenue Member whether subsequent to 31st December 1923 these village officers need not be kept under thumb? My hon. friend the Revenue Member has told us that he has put the term to the end of the calendar year. Why not put it to the end of the official year? There is as much reason for the official year as there is for the calendar year. It stands to reason therefore that this Act should come to an end simultaneously with the other Act, namely, the Revenue Recovery Amendment Act which we passed the other day. It seems to me therefore that it

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Clause 2—*cont.*

is very desirable that this Act should come to a close at the end of the fasli year, 30th June 1923. I therefore support the amendment."

The hon. the PRESIDENT :—" Does the hon. Member Mr. Arumainatha Pillai wish to reply ?"

Mr. T. ARUMAINATHA PILLAI :—" There is no necessity to reply especially after what the hon. the Revenue Member has said that there was no magic in putting either the 30th June 1923 or the 31st December 1923."

The amendment was put and lost.

Mr. T. Arumainatha Pillai demanded a poll which was taken with the following result :—

Ayes.

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| 1. Mr. K. Adinarayana Reddi. | 11. Diwan Bahadur M. Ramachandra Rao Pantulu. |
| 2. Rao Bahadur K. Gopalakrishnayya. | 12. Rao Bahadur A. S. Krishna Rao Pantulu. |
| 3. Mr. W. Vijayaraghava Mudaliyar. | 13. Mr. P. Siva Rao. |
| 4. Mr. J. Kuppuswami. | 14. Mr. C. V. Venkataramana Ayyangar. |
| 5. Mr. A. T. Muttukumaraswami Chettiyar. | 15. Rao Bahadur C. V. S. Narasimha Raju. |
| 6. Mr. M. Narayanaswami Reddi. | 16. Mr. A. Ranganatha Mudaliyar. |
| 7. Mr. K. Sitarama Reddiyar. | 17. Mr. M. R. Seturatnam Ayyar. |
| 8. Mr. N. A. V. Somasundaram Pillai. | 18. Mr. M. Suryanarayana Pantulu. |
| 9. Dr. P. Subbarayan. | 19. Mr. T. Arumainatha Pillai. |
| 10. Mr. P. Venkatasubba Rao. | |

Noes.

- | | |
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| 1. The hon. Sir Lionel Davidson. | 13. Mr. R. Littlehales. |
| 2. " Sir Charles Todhunter. | 14. Mr. A. Ramaswami Mudaliyar. |
| 3. " Khan Bahadur Muhammad Habib-ul-lah Sahib Bahadur. | 15. Mr. R. Appaswami Nayudu. |
| 4. " Mr. K. Srinivasa Ayyangar. | 16. Mr. S. T. Shanmukham Pillai. |
| 5. " Mr. P. Ramarayaningar. | 17. Mr. S. Somasundaram Pillai. |
| 6. " Rao Bahadur A. P. Patro. | 18. Diwan Bahadur R. Venkataratnam Nayudu. |
| 7. Mr. C. P. Ramaswami Ayyar. | 19. Diwan Bahadur M. Krishnan Nayar. |
| 8. Mr. T. E. Moir. | 20. Saiyid Diwan Abdul-Razzaq Sahib Bahadur. |
| 9. Mr. M. E. Couchman. | 21. Sir James Simpson. |
| 10. Mr. N. Macmichael. | 22. Mr. A. M. MacDougall. |
| 11. Mr. F. J. Richards. | |
| 12. Mr. C. W. E. Cotton. | |

The amendment was lost, 19 voting for and 22 against it.

Amendment 1-B.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Sir, I beg to propose—

1-B. *Substitute the word 'continue' for the word 'remain'.*

" It is a mere formal amendment."

Rao Bahadur C. V. S. NARASIMHA RAJU :—" I second it."

The hon. Khan Bahadur MUMAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I accept the change."

The motion was put and carried.

Amendments 2 to 5.

The following amendments to clause 2 fell through in consequence of the result of amendment 1 :—

Mr. B. MUNISWAMI NAYUDU :—

2. *Omit '31st December 1923' and substitute '30th June 1923'.*

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Clause 2—*cont.*

Dr. P. SUBBARAYAN :—

3. *For the words '31st December 1923' substitute '30th June 1923.'*

Mr. A. RANGANATHA MUDALIYAR :—

4. *Substitute '30th June' for '31st December.'*

Rao Bahadur A. S. KRISHNA RAO PANTULU :—

5. *Substitute for '31st December 1923' the words '30th June 1923.'*

Amendment 5-A.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"Sir, I beg to propose—

5-A. *Substitute the following for the second paragraph :—*

'This Act extends to the whole of the Presidency of Madras and it shall come into force in any local area as the Governor in Council may direct by a notification in the Fort St. George Gazette and the Official Gazette of the district.'

"There is no difference in substance between this amendment and what is contained in the Bill. This amendment is intended to bring the Bill into conformity with the existing phraseology in the Revenue Recovery Act."

Rao Bahadur C. V. S. NARASIMHA RAJU :—"I second it."

The hon. Sir LIONEL DAVIDSON :—"The ordinary reader of that clause will think that the word 'any' in 'in any local area as the Governor in Council may direct' refers to something going before it. I am quite aware that it is possible to put some other construction on it. I think it would be wise to say 'in such local area as the Governor in Council may direct.' As it now stands, it will clearly be read as 'in any local area as the Governor in Council may direct' and will be subject to criticism on the score of grammar."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I accept the suggestion."

The hon. the PRESIDENT :—"Let somebody move an amendment to that effect."

Diwan Bahadur M. KRISHNAN NAYAR :—"I propose that for the word 'any' in the second line of that clause the word 'such' should be substituted."

Mr. M. SURYANARAYANA PANTULU :—"I second it."

The hon. the PRESIDENT :—"Does the Government accept the amendment?"

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"Yes."

The amendment was put and carried.

The hon. the PRESIDENT :—"The motion now before the House is—

5-A. *Substitute the following for the second paragraph :—*

'This Act extends to the whole of the Presidency of Madras and it shall come into force in such local area as the Governor in Council may direct by a notification in the Fort St. George Gazette.'

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Clause 2—cont.

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" I would point out that unless there are reasons for showing that there is any defect in the present clause of the Bill I am not satisfied about the necessity for the amendment that has been proposed. The amendment as passed by the Select Committee is to the effect that 'This Act shall remain in force till 31st December 1923.' This Act shall be applicable to such part of the Presidency of Fort St. George as the Governor in Council may, from time to time, direct by notification in the *Fort St. George Gazette* and official gazette of the district. The first portion of it states that 'This Act shall remain in force till 31st December 1923.' It only shows that the Select Committee after careful consideration arrived at the conclusion that this Bill should be limited in operation both as to the time and also as to the area. If I correctly understand the significance of this clause, it means that the Select Committee do not wish that this Bill should be extended to the whole of this Presidency but that it should be limited in operation to a particular area. The Select Committee, I believe, even without a dissentient voice ratified the suggestion that this should be temporarily in force up to December 1923 and also that it should be in operation in a particular area. If the hon. Mr. Ramachandra Rao's amendment is to be accepted, it means that we are going much further than the recommendations of the Select Committee and that its operation would be extended to the whole Presidency though it will come into effect in certain areas by the issue of a notification in the *Fort St. George Gazette* and in the local official gazette. I believe that there is a radical difference between the two positions. The amendment of my hon. friend is likely to place matters in a more difficult position than at present. Simply because these words occur in some other enactments we need not copy them. We must have substantial reasons for changing the view of the Select Committee before taking quite a different course altogether. I can understand the attitude of the hon. the Revenue Member in accepting this motion because, so far as this amendment is concerned, it extends the operation of this Act in specified areas as was proposed to the whole Presidency, though no doubt it will come into operation in certain areas on the issue of a notification. I am sorry I have to oppose this amendment."

Mr. P. SIVA RAO :—" Sir, I have the misfortune to oppose the amendment now before the House. I do so for the main reason
4-30 p.m. that it is unnecessary. There is the preamble of the Act and then there is a section defining the local application of it and I think, Sir, it may result in a contradiction in terms to say that this Act applies to the whole of the Presidency and shall come into effect only in such portions of the Presidency as the Governor in Council may notify. What is the object of saying that this Act shall apply to the whole of the Presidency when we want to qualify that provision in the very clause by saying that it shall come into force only when the Governor in Council chooses to notify its application to any particular area? The wording adopted by the Select Committee is very happy and does not require any change. The Committee prescribes the local extent of application of the Act by saying that it shall not be applicable to the whole of the Presidency but only to such portions as the Governor in Council may notify. I think it is a very necessary safeguard made by the

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Clause 2—*cont.*

members of the Select Committee for which I take this opportunity to thank them. I thank the hon. Member in charge of the Bill also for introducing this change. It is a very effective safeguard and much of the rigour of the Act is relaxed thereby. After the introduction of this clause, if any attempt is made to belittle the effect of this very useful amendment, we must in all conscience oppose it. Let the provision made be there as it is. Moreover the hon. Mover has not given any reason whatever why we should adopt a different wording from the one which was deliberately adopted by the members of the Select Committee."

Mr. O. TANIKACHALA CHETTIYAR :—"Sir, I beg to associate myself with what my friends Mr. Krishna Rao and Mr. Siva Rao have said with reference to the amendment. There is no reason shown why this amendment should be introduced. The Select Committee has gone fully into the matter and they have decided to limit it only to such places as may be specified by notification. My hon. friend Mr. Ramachandra Rao who has hitherto been always for curbing the pace at which the Government are going has, I am afraid, out-Heroded Herod in asking for extending the operation of the Bill. Sir, his policy as the leader of the opposition has been always to put a curb on the executive Government and I do not see any reason why he should not have placed this suggestion before the Select Committee of which he was a member. With these words, I oppose the amendment."

Diwan Bahadur M. KRISHNAN NAYAR :—"Sir, I rise to oppose the amendment purely on grammatical considerations, because the first part directly contradicts the second if the amendment be accepted. The first part says that the Act extends to the whole of the Presidency of Madras. The second part says that the Act shall apply to other parts as well on the happening of a certain event, viz., the publication of a Government notification. The first part directly contradicts the second and apart from the other reasons given by Mr. Tanikachalam Chettiyar and other speakers on the grammatical construction of it, it seems to me that it is wholly inconsistent."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I am sorry, Sir, that my hon. friends have entirely misunderstood the object of the amendment. My friend, Mr. Tanikachala Chettiyar, said that it has been my policy always to put the curb on the executive Government. I am entirely at one with him that that should be the policy not only of myself but also of himself. Having said that I should like to explain my position. The phraseology which I introduced is to be found in almost every Madras enactment with reference to its extent of application. I would refer my hon. friends to the Madras Abkari Act of 1886, and the Food and Drugs Act passed in 1918. The operation of this Act is also capable of being expanded to the whole of the Presidency but the extension has to be done by a notification and that is exactly the proposition that has been put forward in the second part of section 2. Therefore the apprehensions of inconsistency expressed by Mr. Krishnan Nayar are absolutely unfounded because if this is inconsistent, the same may be said of every other enactment in the Madras Code. I am perfectly certain that my hon. friends will notice the same phraseology in the language of every Madras enactment so that, in substance, there is absolutely nothing new. This was intended merely to secure uniformity in the drafting of enactments. I do not

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Clause 2—*cont.*

intend to the slightest extent to extend the scope of the Bill but my attempt was merely to bring it in conformity with the existing language. But my hon. friends are all frightened that I intend to extend the scope unnecessarily and I therefore beg leave to withdraw my amendment so as not to frighten my friends into a belief of that sort."

The motion was then by leave withdrawn.

Diwan Bahadur M. KRISHNAN NAYAR :—" Before you put the clause to the vote, Sir, with your permission and with the consent of the Council I wish to move a verbal amendment to clause 2."

Leave to move was granted and Mr. Krishnan Nayar continued.

"The verbal amendment is to substitute 'Madras' for 'Fort St. George.' It is in accordance with so many other amendments which the hon. the Revenue Member himself moved in regard to the Stamp Act Amending Bill."

Mr. S. MUTTUMANICKA ACHARI :—" I second it, Sir."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I have no objection to accept the motion."

The motion "that in the second paragraph for the words the 'Presidency of Fort St. George' the words 'Presidency of Madras' be substituted" was then put and carried.

Clause 2 of the Bill as amended was then put and carried. The clause was added to the Bill.

CLAUSE 3.

Amendment 5-B.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I beg to move—

5-B. *Put a comma after the word 'Act' in line 3 and omit 'II of' in line 4.*

"The reason for my motion is this. The citation of this Act is 'The Madras Proprietary Estates' Village Services Act, 1894.' That is the short title given in the enactment. The object of the proposal is therefore not to introduce any new matter but to adopt the citation of the enactment as in the original Act."

Mr. A. RANGANATHA MUDALIYAR :—" I second it."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I have no objection to it."

The motion was put and adopted.

Amendment 5-C.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" My next amendment, Sir, which I beg to move is—

5-C. *Add the word 'Madras' before 'Hereditary' in line 4.*

"The reason for the motion is simply to adopt the language of the citation of the Act as in the original enactment."

Mr. S. MUTTUMANICKA ACHARI :—" I second it, Sir."

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I accept the amendment, Sir."

The motion was put and carried.

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Clause 3—*cont.*

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“ Sir, I move—
Put a comma after the word ‘ Act ’ in line 5 and omit ‘ III of ’ in the same line.”

“ This amendment is also intended to bring the language in a line with the usual phraseology of the Act.”

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“ I second the motion.”

Mr. C. P. RAMASWAMI AYYAR :—“ Mr. President, Sir, I have no objection to this particular amendment, but it is a well-known doctrine that punctuation is not part of the Act and courts are not bound by any punctuation that is adopted by the framers of the Act and it seems to me to be embarrassing that this House should pass any resolution relating to punctuation. Whatever hon. Members may ask us to do in regard to punctuation, it can never be regarded as part of the Bill.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“ I am really surprised at the statement made by the hon. the Advocate-General. If by means of the punctuation proposed to be inserted the Act reads better, is it even then the contention of the hon. the Advocate-General that motions to that effect should not be made?”

Mr. C. P. RAMASWAMI AYYAR :—“ My answer is this, Sir. Whatever punctuation is adopted by the printer or by this Council, if the reading of the Act gives rise to a different interpretation, the punctuation will be disregarded by the courts in giving effect to the Act. That is a well-known rule of interpretation. Having regard to that rule, it is well that legislative assemblies do not spend their time in finding out what is the proper punctuation to be adopted.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“ I am satisfied with my hon. friend's advice, but I still believe that when an Act is before us, it is our duty to scrutinise it and suggest even punctuation marks wherever necessary.”

The motion was put and carried.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“ Next I beg to move—

Substitute the words ‘ The Madras Hereditary Village Offices Act ’ for the words ‘ Act III of ’ in lines 8 and 9.

“ This is also an amendment similar to the previous ones and I need not at all say anything in support of it.”

Rao Bahadur C. V. S. NARASIMHA RAJU .—“ I second it.”

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB|Bahadur :—“ I have no objection to it, Sir.”

The motion was put and carried.

Amendment 6.

4-45 p.m. Mr. O. RAMALINGA REDDI :—“ Mr President, I beg to move the amendment standing in my name which runs thus :—

6. *Omit all the words after ‘ resignation ’ occurring in lines 10 and 11 of the clause and insert ‘ in consequence of any political movement directed against the authority of Government ’.*

“ The Select Committee's report admits that it is desirable to define the nature of the offence. It proceeds to argue however that it is not possible to

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Clause 3—*cont.*

lay down such a definition. I suggested one or two amendments, but the hon. the Advocate-General pointed out that they would only lead to a great deal of litigation and that further they did not really help to define the offence in clear and unmistakable terms. I first suggested 'for political reasons, or in order to embarrass the Government'. This was because the hon. the Revenue Member when he introduced the Bill definitely told us that this was weapon No. 2 in the series of measures that were forged for combating the non-co-operation movement. I thought that if that was the object, it would not be wise or proper to leave that object out of the Bill altogether. I was given to understand that my original suggestion would not conduce to clearness because a man might say that his wife having threatened to commit suicide by the command of Mahatma Gandhi he was obliged to resign. In such case he would resign not to embarrass the Government but to escape domestic embarrassment himself. As regards political reasons, that appeared to be too wide an expression. Some objective standard which would not imply such subjective elements was desirable. I therefore gave a notice of the amendment which now stands in my name. If this amendment is carried, we will not be going into the motives and reasons for which the village officer resigns his post. We say that if he does it in consequence of any political movement, however it may operate in respect of him, directed against the authority of the Government, he should suffer these special penalties. Now, in the case of Kistna and Guntur districts, the village officers resigned as a result of the intimidation by non-co-operators, and their case also will be covered by the phraseology now suggested. If they resign because of the pressure exerted by wife or son or by students, or by volunteers, if for any reason they leave their posts in consequence of any political movement of the type of non-co-operation, they would come within the penalties prescribed in this Bill. I therefore think that there ought not to be much objection to the acceptance of this amendment. With these few words I commend this amendment to the favourable consideration of the House."

Rao Bahadur K. GOPALAKRISHNAYYA :—" Mr. President, I rise to second this amendment. Hon. Members will notice that I have given notice of a similar amendment to the same effect tabled on the agenda as No. 12. This amendment, Sir, deals with section 16 of the Madras Proprietary Estates' Village Service Act, 1894, and section 7 of the Hereditary Village Offices Act, 1895, where the Collectors have ample powers to suspend, remove or dismiss village officers for certain kinds of misconduct. The amendment as is approved by the select committee appears to throw the burden, quite contrary to the fundamental principles of law, on the village officers to show cause why they should not be dismissed. The present Bill assumes more or less as a rule that the village officer for certain reasons should be dismissed, but the exception will have to be made out by the village officer himself if the present amendment as is suggested in the amending Bill is to be accepted. This is a reverse process, exception becoming a rule and the rule an exception. Then again, Sir, if this clause as it stands at present is to be carried, it will work a great deal of hardship as pointed out by the hon. the Mover. Probably the hon. the Revenue Member might come forward and say that this form of dismissal has a remedy by way of appeal to the Board of Revenue. But, Sir, we know what the fate of such appeals will be. It is the word of

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Clause 3—*cont.*

the real man on the spot that would count especially with this scare of non-co-operation being at the bottom of the so-called misconduct of the village officer. Then again any particular subordinate of the Collector might make a report against any village officer making this as an ostensible reason so as to make out a case against him with a view to effect his dismissal though the real reason may be different. Of course, generally, the Collectors will be guided by the reports of their subordinates. In cases of this sort, generally, no broadmindedness or foresight will be exercised by the executive officers. This reminds me, Sir, of an incident which occurred in the mediæval days of the history of the Andhras when one Mr. Goparaju Ramanna Pantulu, an advisor under the Nawabs, out of sympathy for his own castemen who were Niyogis, waited for an opportunity of drawing powers from the Nawab, dismissed in the course of three days six thousand village officers who were Viswa Brahmans and appointed in their place his own castemen who at present go by the name of 'Arvela Niyogi'. The real cause for this wholesale dismissal was a religious controversy though the ostensible cause was some alleged misconduct. That probably, Sir, might recur if we really adopt the clause as it now stands. The misconduct might be with regard to several things. It may be that the misconduct of the village munsif is for lack of duty in making proper supplies for which no payment is ordinarily made by lower subordinates, of course barring honourable exceptions. Again it may be for his failure to bring a cow to the bungalow of the officer, for being milked under the personal supervision of a cook so that the milk might not be diluted with water. He has to do such things just to please the fancy of the officers. These are all experiences of mine in the villages.'

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :— "I wonder, Sir, if all this vituperation against the officials is at all relevant to the issue."

The hon. the PRESIDENT :—"I should probably have called the member to order, but so far as I am able to gather, the idea is that the officer to whom good milk is not supplied may use this particular clause against the delinquent village officer. (Loud laughter.) I have nothing to do with the reasonableness of the argument, but I have only to do with its relevancy. I gather from what the hon. Member has said that the district officers may use this weapon oppressively against village officers who do not make adequate supplies. Is not that the hon. Member's point?"

Rao Bahadur K. GOPALAKRISHNAYYA :—"Yes, Sir. It is exactly so."

The hon. the PRESIDENT :—"Then I suppose it is relevant." (Laughter.)

Rao Bahadur K. GOPALAKRISHNAYYA :—"I thank you, Sir, for having come to my relief. What I meant to say was that any cause might be taken to be a political cause, because the Collectors or the revenue heads of the districts will among their multifarious other duties not be in a position to gather things personally. They will have to depend upon the reports of their lower subordinates and the lower subordinates, if they are displeased with the village officials for any such reasons, will make political capital out of such an alleged misconduct on the part of the village officer and say that that man has joined the non-co-operation movement and therefore he is liable to dismissal. The Collector believing the story of his lower subordinate might in his own discretion or indiscretion dismiss the officer, and even

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Clause—3 *cont.*

if he prefers an appeal to the Board of Revenue, the Collector's word will naturally weigh more with the Board than that of the village officer. Therefore it is that I say that all this sort of conduct or misconduct on the part of the village officer will be mistaken for political misconduct.

"Then again we find, Sir, from the report of the Select Committee that the members of that committee did not come out of the meeting with any case of mind. They themselves suggested, Sir, that they were also afraid of giving very wide powers to the District Collector. We find in paragraph 3 of the Select Committee's report: 'some of us are of opinion that clause 3 of the Bill gives very wide powers to the District Collector. Again from the same paragraph it is clear that they themselves wanted to suggest that the words 'for political reasons or in order to cause embarrassment to Government' should be substituted in place of the words 'except for a cause which the District Collector in his discretion accepts as satisfactory.' Such sorts of doubts were prevalent in their minds and as such it is but just and proper that we should amend that clause as now suggested by my hon. friend Mr. Ramalinga Reddi. Moreover, the only objection that is urged against such an amendment in the Select Committee's report is that the inclusion of these words will give rise to suits or proceedings by dismissed persons. Though there is no provision for suits in the present Act, they are afraid of suits, but according to the amended Court Fees Act and the Stamp Act, probably the Revenue Member will be glad of getting some additional revenue if really there is going to be a number of suits against these orders. Certainly if the man has a right to sue, that right of suit should not be removed by this Bill, and if he has a right of appeal, certainly he will have to make out his case. These fears were entertained by the Select Committee and their minds were not free from these doubts, and seeing that such doubts as were expressed in the Select Committee are covered by the amendment which is now put forward, I hope the amendment will be carried by the House. For these reasons, I second this amendment most heartily."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, it is hardly necessary for me to detain the Council for any length of time in giving elaborate reasons in respect of this amendment, because the Select Committee after considering this question at considerable length stated in their report that they were inclined to limit the nature of offences for which the officers were to be punished though they found some difficulties in giving effect to it in the Bill itself. When the principle is accepted we should not be handicapped in our efforts for securing the appropriate amendment in the Bill itself. The hon. the Revenue Member has been pleased to tell us that in view of the desirability of confining the Bill to the actual necessities of the case, the Bill has been made one of a temporary character and that necessary safeguards have been made in the Bill. But, Sir, it is always difficult for the Collector of a district to come to a safe conclusion as to whether the reason assigned for resignation is or is not satisfactory, because it will depend upon the various reports and representations that he may be getting from time to time. We cannot be sure that an officer who is supervising over the whole district and who will have to depend upon the reports of the various officers including the police and the salt and abkari—seeing that picketting and other similar things are also concerned here—will find it possible to balance the reasons for and against a particular officer and come to a safe and satisfactory conclusion."

5 p.m.

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Clause 3—*cont.*

“When once it is realized that there are several difficulties in the way of the Collectors coming to right conclusions let us safely limit the operation of the section and define the offences as contemplated in the present amendment. What is the necessity for going further than the object the Government had while introducing this Bill? Therefore, I think that the hon. the Revenue Member realizing as he does the limitations under which we are working and the fact that this question was fairly discussed in the Select Committee will do well to accept the views of this House and give effect to its intentions.”

MR. S. T. SHANMUKHAM PILLAI :—“I think the amendment is not necessary. The clause as it stands covers all cases including political causes. Whatever may be the cause, only if the Collector is satisfied with the reasons he dismisses the officer. I think the clause as it stands is satisfactory. Unless he is satisfied after inquiry, the Collector will not dismiss an officer.”

MR. P. SIVA RAO :—“I rise to support this amendment. I have given notice of a similar amendment and I may be permitted to have my own say even with regard to this amendment. With regard to this motion I may be permitted to draw the attention of this House to the statement of objects and reasons. In the statement of objects and reasons it is stated: ‘whereas in certain parts of the country an organized attempt is being made by certain village officers to prevent the collection of Government revenue by declining or refusing to do their duties or by suddenly resigning their office relying on their hereditary right to secure the emoluments to one or other members of the family, it has become necessary for the Government to take such steps as are necessary to prevent such resignations or dereliction of duty.’ Now I would ask in all humility why should the Government resist the attempt made by the hon. Mover to embody these objects and reasons in one of the provisions of the Bill itself?”

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—“I have not yet spoken, Sir. He asks, why should the Government resist.”

MR. P. SIVA RAO :—“There is absolutely no reason why he should resist. I do not assume for a moment why the hon. Member in charge should be so unreasonable as to press for the rejection of this amendment. I was saying from the statement of objects and reasons that the object is only to combat a certain and specific need to put an end to the evil of non-co-operation which is rife in some parts of the Presidency and the attempt made by the hon. Mover is to embody the object in the Bill itself lest the Collector who may be called upon to decide upon these matters may possibly abuse that power. Now, Sir, the question is very simple. The matter was considered in the Select Committee in paragraph 3 of the report where they deal with this aspect of the matter. So far as I can see, the members were quite alive to the necessity of introducing a provision like that. They were advised, however, that it would be impossible adequately to define political reasons or to give a satisfactory definition of matters which are likely to cause embarrassment to Government. They also say that the inclusion of these words would give rise to suits or proceedings by dismissed persons as to whether the Collector was within the powers vested in him in dismissing the particular person. That is the only reason alleged and I take it that the principle is accepted by most of the members of the Select Committee as to the necessity for such a safeguard

[Mr. P. Siva Rao]

[15th March 1922]

Clause 3—*cont.*

But they feel powerless to define in strict language what that reason should be in any particular case and there is also this fear that they will be making themselves liable for suits. There is absolutely no foundation so far as the fear of suits is concerned. Even in the present Act the District Collector may dismiss any of the servants for some specific cause. No doubt if the Deputy Collector should dismiss there is the right of appeal to the Collector and a second appeal to the Board of Revenue. In any case these cases are not generally taken to the civil courts. Even if there is any such fear we can introduce a provision or clause to the effect that the orders of the Board of Revenue shall be final and that the right of the person who resorts to the civil courts shall be taken away. In any view while accepting the principle of defining the particular cause so far as it lies in our power to define a particular reason and a particular circumstance why should we not do it? I may say without taking any more valuable time of the Council that this is a very drastic provision. It is a punitive provision and a penal provision. Even in cases where the village officer tenders resignation the Collector need not accept it and he may dismiss him, and this will have the effect of depriving his family of the hereditary right. We ought to try to secure the necessary safeguards against possible abuses of power. I do not want to cite any specific instance but it is common foresight and prudence to give a clear indication of the circumstances under which the executive should take such drastic action. I think I have said enough to induce the hon. Member for Revenue to accept this amendment. The simplest question and the simplest issue is this—should we or should we not indicate the circumstances under which the Collector should exercise this drastic power. Though I feel that the village officers should be punished in these special cases I say that there should be sufficient safeguards provided against a possible abuse of such power.”

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—“Sir, this question which my hon. friend Mr. Ramalinga Reddi has brought before the House to-day was discussed very freely and, may I say, frankly at the Select Committee though I am not quite sure if the phraseology which he has now adopted in his motion was the exact phraseology that he was attempting to introduce into the Bill at the time of the discussion. In any case, I am sure the effect was the same.”

Mr. C. RAMALINGA REDDI :—“May I say that I pressed this exact phraseology at the second meeting?”

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—“We then had the benefit of the opinion of the Advocate-General who I am sure will enlighten us with his views on this question to-day also and we came to the definite conclusion that the introduction of any such definite clause into the Bill would lead to complications more than what could be anticipated at the present moment, and that any individual who was dismissed under clause 3 could challenge the decision of the Collector on the ground that the particular reason which was mentioned by the Collector for dismissing the man did not come under the purview of a political movement. It was considered that the phrase ‘the political movement’ was so wide that it could be interpreted in a variety of ways.

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Clause 3—*cont.*

“ Rather than, therefore, complicating matters and opening, as it were,
5-15 p.m. the door for more and more of litigation to contest the decisions of the Collector or the Board of Revenue as the case may be and thereby defeating the very object with which this measure is being introduced before the House and remembering at the same time that this is a measure which is intended to meet the emergencies of the occasion—a measure which has a limited scope of life, a measure which will not be introduced in any particular area unless and until the Government are absolutely satisfied that there is need for the extension of its provisions to that particular area—the Select Committee by a majority were of opinion that the introduction of any such clause would lead to complications beyond comprehension. They, therefore, preferred to leave the clause as it was drafted, for the reasons that I have already mentioned as also for the additional reason that the Collector (whatever dark picture my friend Mr. Gopalakrishnayya might draw about that officer), as the officer on the spot and as the agent of the Government and as one who is credited with the responsibility of the conduct of administration in the district, could be relied upon not to resort to practices which were in vogue in the mediæval days when village officials were being dismissed by thousands within the twinkling of an eye for the sin of belonging or not belonging to a particular class or community. The officials of the present day certainly possess greater commonsense, greater sense of responsibility, greater circumspection and greater judgment than those depicted by Mr. Gopalakrishnayya. It must be confessed that the Government as well as this House must credit the Collector with a certain degree of responsibility and must trust him to discharge that responsibility to the best of his light, not being prejudiced one way or the other according to the thickness or the watery nature of the milk that is supplied to him. Further, let us also remember that there are already in the proposed Bill a few safeguards provided. Hon. Members will see in clause 4 of the Bill that the Collector cannot pass any orders under clause 3 unless and until he has given an opportunity to the offending village official to show cause why he should not be dismissed. Let us assume that that notice will be given, that proper opportunity will be afforded to the village official concerned to show cause why he should not be dismissed for the reasons that are alleged in the order of the Collector and let us also feel confident that, if sufficient reasons are shown as to why the village official concerned should not be punished under the purview of clause 3, the Collector will not issue an absolutely unjust or perverse order. There is a further precaution. The order of the Collector is not the last word; it does not finally seal the fate of the village official against whom it shall have been passed; it does not connote that the village official against whom an injustice might have been perpetrated for his failure to supply thick milk will lose the chance of getting justice vindicated. He has also a right of appeal to the Board of Revenue. A period of one month is allowed to this aggrieved party to lay his grievance before the Board of Revenue, to satisfy that authority which comprises a collective body of able, experienced, responsible officials—responsible for the conduct of the revenue administration of this province—that an order which was passed by the Collector errs against the spirit of the law. When such serious consequences are involved in an order

[Mr. Muhammad Habib-ul-lah Sahib] [15th March 1922]

Clause 3—*cont.*

of dismissal under these provisions, is it to be expected that the Collector and the Board of Revenue will discharge their duties, and their responsibilities, in a manner so as to work this Act, if it should be extended to any particular area, with anything like perverse judgment? May I not ask the House, on behalf of the Collector and the Board of Revenue, to believe that the Collector and the Board of Revenue could very well be trusted to do their duties honestly, with discretion and with judgment?

“Now, Sir, Mr. Shanmukham Pillai, whose knowledge of revenue matters often comes to my help whenever I am placed in a dilemma as regards meticulous matters of revenue policy, has put it very well when he said that clause 3 as it stands contains sufficient safeguards. Well, I fully echo the expression of view given by him, for, I think if the clause is read as it is, it will be seen that it is not after all such a mediæval piece of legislation as to make it possible for any Collector, deputy collector, or tahsildar, dissatisfied with the nature of the cow that is supplied to him, to regard it as sufficient cause for the dismissal of any individual. I take it, Sir, that these sentiments, if given expression to, lack something like grace. They probably might have been absolutely relevant so far as the hon. Member used them for the purpose of showing how the power will be misused; but I say that the misuse of the power should more or less be regarded as an exception in a civilized country like ours than the rule. It is with a view to arm the officials with powers under proper safeguards that the Select Committee has taken the trouble to render the life of this Bill only for a brief period and does not give the Collector or the Board of Revenue the opportunity of dealing with individuals under this enactment as soon as it is passed into law; but it has cast the duty and responsibility of introducing it into any particular area on the shoulders of the Government, so that the Government, before they issue a notification, will have to be perfectly satisfied that the needs of the occasion, the condition of affairs and the feelings in that particular area are such as to necessitate the exercise of this exceptional power that is being asked at the hands of the Council. I must, therefore, very strongly claim, Sir, that, if at all it is going to serve any useful purpose, it is certainly intended to meet the case like the one that it should meet. Any further tinkering with the already wide powers which are given and which are subject to correction from time to time by authorities one over the other and finally subject to the greatest scrutiny by the Government before any portion or any section of this Bill is introduced in any particular area, I submit, Sir, is not proper.

“As regards the technical aspect of the matter, as to how the words ‘political movement’ if allowed to remain in a Statute Book will operate, as to the difficulties they will present in the interpretation of the clause either by the Collector or by the Board of Revenue or by a court of law, if litigation should go before a court of law, I was thinking of asking the Advocate-General to address the House on that matter. But I am aware, Sir, that it is now half-past five and I see the House getting itself thin and thin at every minute. Therefore I do not wish to ask the Advocate-General to speak now. So I think that, in the interests of all, it is desirable to adjourn further discussion on the subject until 11 a.m. to-morrow.”

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[The President]

Clause 3—*cont.*

The hon. the PRESIDENT :—"To-morrow is the only day we have for legislative business before financial work is taken up. If that suits the Government, I have no objection to adjourn the House now. May I take it that this will be over before lunch time to-morrow?"

The hon. Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"I do not think that it will last longer than that period, Sir."

The hon. the PRESIDENT :—"I am sure hon. Members will share with me the hope that we shall have at least half a day interval between the end of our legislative work and the beginning of our financial work. So we will sit to-morrow at 11 a.m. and try to finish before lunch."

The hon. Sir CHARLES TODHUNTER :—"May I know, Sir, if you adjourn the whole of the agenda till to-morrow or only this portion?"

The hon. the PRESIDENT :—"It is difficult for me to forecast the future. But so far as I am able to see, if Mr. Tanikachalam Chettiyar's resolution is debated upon and we have to come to a decision upon it, I do not think there will be time for that; and I am sure the hon. Member does not wish to have a part debate on a matter like that."

Mr. O. TANIKACHALA CHETTIYAR :—"No part debate, Sir."

The hon. the PRESIDENT :—"Very well. Then the understanding is that this particular Bill will go into the agenda for to-morrow. I also see a motion standing in the name of the hon. the Minister for Local Self-Government. I will have these two subjects put into the agenda for to-morrow. It is understood that these are the only two things that will be dealt with to-morrow."

The Council adjourned at 5-30 p.m. to meet again at 11 a.m. on Thursday the 16th day of March 1922.

L. D. SWAMIKANNU,
Secretary to the Legislative Council.